



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

DEC 28 2016

OFFICE OF
COMPLIANCE AND ENFORCEMENT

Reply to: OCE-101

Certified Mail – Return Receipt Requested

Mr. W. Scott Bayha
McClarin Plastics, LLC
180 East Jones Road
Wapato, Washington 98951

Re: **NOTICE OF VIOLATION**
McClarin Plastics, LLC
EPA ID No. WAR 00001 2427

Dear Mr. Bayha:

This Notice of Violation (NOV) is to inform McClarin Plastics, LLC of violations of the Resource Conservation and Recovery Act, as amended (RCRA). These violations were identified as a result of an inspection performed by the U.S. Environmental Protection Agency (EPA) on October 26, 2015, at McClarin Plastics, LLC, located at 180 East Jones Road, Wapato, Washington. The inspection was performed pursuant to the EPA's inspection authority under Section 3007 of RCRA, 42 U.S.C. § 6927.

From the observations made during the inspection, the following RCRA violations were identified at the facility:

Violation 1 – Failure to make a hazardous waste determination

The regulation at 40 C.F.R. § 262.11 requires that a person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must determine if that waste is a hazardous waste. The generator may make this determination based on analytical testing or by applying process knowledge in light of the materials or process used.

The inspectors were told that a hazardous waste determination had not been made for waste paint booth filters from the Gillig paint booth, in violation of 40 C.F.R. § 262.11.

Violation 2 – Failure to close satellite containers of hazardous waste

The regulation at 40 C.F.R. § 262.34(c)(1)(i) allows a generator to accumulate as much as fifty-five gallons of hazardous waste in containers at or near any point of generation where waste initially accumulates, provided that, among other things, the container holding hazardous waste is always closed during storage except when it is necessary to add or remove waste [40 C.F.R. § 262.34(c)(1)(i) references 40 C.F.R. § 265.173(a)].

The inspectors observed that four satellite accumulation containers, including a container for filters removed from the spray unit, a container of waste MEK from the vacuum infusion pump, a container of waste acetone at the Gillig paint booth, and the waste collection container for the aerosol can puncture unit, were not

closed. Failure to close a hazardous waste satellite accumulation container is a violation of 40 C.F.R. § 262.34(c)(1)(i).

Violation 3 – Failure to label satellite containers of hazardous waste

The regulation at 40 C.F.R. § 262.34(c)(1)(ii) allows a generator to accumulate as much as fifty-five gallons of hazardous waste in containers at or near any point of generation where waste initially accumulates, provided that, among other things, the container is marked with the words “hazardous waste” or other words that identify the contents of the container.

The inspectors observed that five satellite accumulation containers, including container for filters removed from the spray unit, a container of MEK waste from the vacuum infusion pump, a container of waste acetone at the Gillig paint booth, a step can of waste resin at the Gillig paint booth, and a container of waste acetone near the shipping area, were not marked with the words “hazardous waste” or other words identifying the contents of the container. Failure to label a hazardous waste satellite accumulation container is a violation of 40 C.F.R. § 262.34(c)(1)(ii).

Violation 4 – Failure to properly manage hazardous waste storage containers

The regulations at 40 C.F.R. § 262.34(d) allow generators to accumulate hazardous waste on-site for 180 days or less without a permit, provided that the generator, among other things, complies with hazardous waste storage conditions, including: containers used to store hazardous waste must be labeled with the words “hazardous waste” [40 C.F.R. § 262.34(d)(4) references 40 C.F.R. § 262.34(a)(3)], containers of hazardous waste must always be closed [40 C.F.R. § 262.34(d)(2) references 40 C.F.R. § 265.173(a)], and the date upon which each period of accumulation begins must be clearly marked on each container [40 C.F.R. § 262.34(d)(4) references 40 C.F.R. § 262.34(a)(2)].

In the hazardous waste accumulation area, two drums of waste MEK-contaminated sink water and one drum of waste Super Flush were not marked with the date that accumulation began. Also, a 225-gallon tote of MEK-contaminated sink water was not labeled as hazardous waste, was not marked with the date that accumulation began, and was not closed. Failure to properly manage containers of hazardous waste violates conditions set forth in 40 C.F.R. § 262.34(d) for accumulation of hazardous waste without a permit.

Violation 5 – Failure to conduct weekly inspections of hazardous waste accumulation areas

The regulations at 40 C.F.R. § 262.34(d) allow generators to accumulate hazardous waste on-site for 180 days or less without a permit, provided that the generator, among other things, inspects areas where containers of hazardous waste are stored at least weekly [40 C.F.R. § 262.34(d)(2) references 40 C.F.R. § 265.174].

The inspectors were told that weekly inspections of the hazardous waste accumulation area were not being conducted. Failure to conduct weekly inspections violates a condition set forth in 40 C.F.R. § 262.34(d)(2) for accumulation of hazardous waste without a permit.

Violation 6 – Failure to ensure that employees are familiar with proper waste handling

The regulations at 40 C.F.R. § 262.34(d) allow generators to accumulate hazardous waste on-site for 180 days or less without a permit, provided that the generator, among other things, ensures that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies [40 C.F.R. § 262.34(d)(5)(iii)].

The inspectors were told that hazardous waste training had not been provided for employees. Failure to ensure that employees are familiar with proper waste handling violates a condition set forth in 40 C.F.R. § 262.34(d)(5)(iii) for accumulation of hazardous waste without a permit. Following the inspection,

documentation was received indicating that McClarin Plastics employees had received hazardous waste training relevant to their responsibilities. Therefore, this violation has been corrected.

Violation 7 – Failure to submit an exception letter

The regulation at 40 C.F.R. § 262.42(b) requires that a small quantity generator must submit an exception letter to the EPA if they have not received a copy of a hazardous waste manifest with the handwritten signature of the owner or operator of the designated receiving facility within 60 days of the date that the waste was accepted by the initial transporter.

The inspectors observed that there was no signed copy of a return manifest for manifest number 006766800. Failure to submit an exception letter within 60 days of the waste being accepted by the initial transporter is a violation of 40 C.F.R. § 262.42(b).

Required Action

The above violations may subject McClarin Plastics, LLC to enforcement action under Section 3008 of RCRA, including the assessment of civil penalties. Within twenty (20) days of receipt of this NOV, the EPA requests that you submit a written response and/or photographs that identify actions you have taken or will take to correct the existing violations.

Please send all material submitted in response to this NOV to Kristin McNeill by email at mcneill.kristin@epa.gov, or:

Ms. Kristin McNeill
U.S. Environmental Protection Agency
Multimedia Inspection and RCRA Enforcement Unit, OCE-101
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

EPA Reservation of Rights

Notwithstanding this NOV or your response, EPA reserves the right to take any action pursuant to RCRA or any other applicable legal authority. Your response to this NOV does not constitute compliance with RCRA.

Nothing in this NOV or your response shall affect duties, obligations, or responsibilities with respect to McClarin Plastics, LLC under local, state, or federal law or regulation.

Thank you for your prompt attention to this important matter. If you have questions regarding this NOV, please contact Kristin McNeill of my staff at 206-553-6291 or mcneill.kristin@epa.gov.

Sincerely,



Edward J. Kowalski
Director

cc by email:

Ms. Elizabeth Sanchez, Yakama Nation Environmental Management Program